IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 17917 of 2004

Between:

Smt. T. Hanumayamma, W/o Nageswara Rao, Grade I Matron,
Social Wwelfare College Girls Hostel, Ongole, Prakasam District.

..... PETITIONER

AND

1 District Social Welfare Officer (G1), Government of Andhra Pradesh, Ongole.
2 Commissioner of Social Welfare, Government of Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Certiorari, call for records and quash the impugned Order dated 23-7-2004 in O.A.No. 1580 of 2002 passed by the Hon'ble A.P. Administrative Tribunal declaring the Order as illegal, arbitrary, discriminatory, violative of Articles 14, 16, 21 of the Constitution of India, and well settled principles of law as also contrary to the judgments of the Apex Court as well as this Hon'ble High court and consequently, quash the proceedings dated 19-12-2001 of the 2nd respondent, and the punishment order dated 26-1-1980 imposed by the 1st Respondent, of stoppage of 3 increments with cumulative effect, holding the same as illegal, unjust, unfair, arbitrary, discriminatory without jurisdiction, nonest and violative of principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India as also the provisions of A.P. Civil Services (CC & A) Rules and set aside the punishment of stoppage of 3 increments with cumulative effect imposed against the Writ Petitioner and further consequently allow her all the attendant benefits including restoration of the three increments from

the date of punishment order and to pay arrears on account of such restoration etc and any other consequential benefits that would have accrued to her had the punishment not been imposed on her, and to the benefits she would have been entitled to had she not been visited with the penal consequences in view of the punishment of stoppage of increments with cumulative effect etc,

Counsel for the Petitioner: MR.S.A.CHARI

Counsel for the Respondents: GP FOR SERVICES II

The Court made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.1580 of 2002, dated 23.7.2004.

2. The petitioner was working as Matron Grade-I in Government Girls High School, Ongole. While so, a charge sheet was issued to her on 30.3.1979, to which she submitted an explanation. Thereafter the competent authority passed an order dated 26.1.1980 imposing punishment of stoppage of increment with cumulative effect for three years. Against the said order, she preferred an appeal to the Commissioner of Social Welfare and the same was dismissed by an order dated 19.12.2001. Against the said order, she filed the present OA before the Tribunal. The principal contention raised by the petitioner before the Tribunal was that the deferment of increment with cumulative effect for three years is a major punishment and the said punishment cannot be imposed without conducting an enquiry as contemplated under A.P.C.S. (CC&A) Rules and in the instant case since no such enquiry was conducted, the order of punishment is illegal. The learned Tribunal rejected the said contention and dismissed the OA. Against the said dismissal of the OA., the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the order of the Tribunal is not sustainable in law inasmuch as the decision of the Supreme Court in KULWANT SINGH GILL vs. THE STATE OF PUNJAB[1] squarely covers the situation and in the instant case since the matter was pending before the appellate authority, the said decision applies to pending proceedings also. Hence the order of the Tribunal is liable to be set aside.

4. We have also heard the learned Government Pleader for Services-II.

5. Admittedly in the instant case the punishment was imposed on 26.1.1980. Though the appeal was filed within time, it was disposed of nearly after two decades. We are unable to find the reasons for such delayed disposal of the

appeal filed by the petitioner. But, however, in this case we have to only consider the effect of the Judgment of the Supreme Court while the appeal is pending.

6. It need not be disputed that the appeal is continuation of original proceedings and the decision referred to above equally applies to the pending proceedings. Under those circumstances we find that the order imposing punishment of deferment of one increment with cumulative effect for three years is a major punishment and since it was imposed without following the procedure laid down, it is not sustainable. However, it is found that more than two decades have elapsed and at this distance of time it would not be appropriate to remit the matter to the authority for conducting fresh enquiry and imposing of appropriate punishment. Under those circumstances we find that imposing a minor punishment would meet the ends of justice. Accordingly the deferment of one increment with cumulative effect for three years is modified to that of deferment of one increment without cumulative effect for three years.

7. With the above modification, the Writ Petition is disposed of. No costs.

(G.BIKSHAPATHY, J.)

16th March, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 District Social Welfare Officer (G1), Government of Andhra Pradesh, Ongole.
2 Commissioner of Social Welfare, Government of Andhra Pradesh, Hyderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

5 2 CD copies

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